



Policy Type: Board

Category: Procurement

Policy Name: County Contracting Activities - Board Policy 5.4

5.4 COUNTY CONTRACTING ACTIVITIES

5.4.1 Overview

This section provides an overview of the County's contracting activities and sets forth the policy requirements for contracting activities in the County.

5.4.2 Policy

It is the policy of the Board that Agencies/Departments conduct their contracting activities in conformance with the County's specific requirements for such activities.

5.4.3 Background

The County contracts with individuals, private for-profit firms and corporations, private non-profit organizations, and other public agencies for various products and services. In this Chapter of the Board Policy Manual, these entities may be referred to as contractors, vendors, or suppliers.

5.4.4 Purpose

The purpose of Section 5.4 is to establish a policy that describes the requirements for contracting activities in the County.



5.4.5 Application of the Policy

5.4.5.1 Definitions

(A) County Contract

A contract is an agreement between the County and a non-County entity or individual that contains a promise or set of promises or the mutual obligations of the parties. Agencies/Departments, however, cannot contract with each other. Although Agencies/Departments may enter into Memoranda of Understanding (MOUs) and letter agreements describing arrangements reached between the two, such intra-County documents are not contracts enforceable by an Agency/Department against another.

A document need not be entitled "contract" or "agreement" to be considered a contract. Examples of contracts include, but are not limited to, a legally-binding MOU with a non-County entity, an amendment to a contract, a field purchase order, and Non-Disclosure Agreements. A document can be considered a contract even if there is no exchange of money.

(B) Grants

Funds provided by a government or other organization (grantor) for specified purposes to an eligible recipient (grantee). Grants are usually conditional upon certain qualifications, for example, use, maintenance of specified standards, and/or a proportional contribution by the grantee or other grantor(s).

(C) Goods and Related Services



Goods and Related Services refer to the goods, materials, software, equipment, and related services procured by the County, such as furniture and office supplies.

(D) Professional Services

Professional Services are any technical or consultant services that provide support to and facilitate department operations and the governmental functions of the County administration/management, program management or innovation. Professional services for purposes of the County's procurement process include, but are not limited to the following: (1) Licensed Professional services, such as Physicians, Psychologists, Marriage and Family Therapist; (2) Consulting Services; (3) Trainer Services; (4) Medical Services; (5) Legal Services; (6) Information Technology and Communications Consulting Services; (7) Fiscal Consulting Services; and (8) Human Services as described in Section 5.10 of this Chapter.

Professional Services are typically not furnished with the acquisition of goods and materials.

(E) Architect-Engineer-Construction Project Management Services

- (i) "Architectural, landscape architectural, engineering, environmental, and land surveying services" includes those professional services of an architectural, landscape architectural, engineering, environmental, or land surveying nature as well as incidental services that members of these professions and those in their employ may logically or justifiably perform;
- (ii) "Construction project management" means those services provided by a licensed architect, registered engineer, or licensed general contractor which have the requisite expertise and experience for management and supervision of work performed on state construction projects; and



- (iii) "Environmental services" means those services performed in connection with project development and permit processing in order to comply with federal and state environmental laws.

(F) Non-Professional Services

Non-Professional Services are all services not within the scope of the definitions of Professional Services, Architect-Engineer-Construction Project Management and Goods and Related Services above. They are non-technical or non-consultant services that provide support to and facilitate department operations.

Non-Professional Services for the purposes of the County's contracting process include, but are not limited to the following: (1) Laboratory Services; (2) Courier Services; (3) Equipment Maintenance Services; (4) Maintenance and Repair Operations Services; (5) Laundry Services; (6) Landscape Services; (7) Garbage and

Recycling Services; (8) Records Retention and Destruction Services; and (9) Printing Services.

Non-professional services may be rendered with or without furnishing of goods and materials.

If an Agency/Department needs assistance in identifying the appropriate category of services being procured, it should consult with the Procurement Department.

5.4.5.2 Types of County Contracts



The County enters into numerous contracts annually. These include revenue contracts and contracts to procure goods and/or services.

The County also enters into contracts for services annually with other federal and state agencies. Typically, these contracts stipulate that the County will abide by various rules and regulations as a condition of receiving funds to carry out services that are supported in whole or in part by the federal and state governments. The County also may contract with the state and federal governments to provide certain services and may be compensated for those services, or with other public agencies to form joint powers authorities (JPAs). JPAs are generally formed to carry out specific responsibilities that are multi-jurisdictional in nature and reflect regional interest.

5.4.5.3 Form of County Contracts

The form of document used for a County contract will vary depending on the type of transaction, the source of the authority and/or the total value of the contract. For example, a standard form agreement that contains the County's mandatory contract provisions may be appropriate for a low-value consulting services contract. Agencies/Departments should consult with County Counsel, Procurement Department and/or the County Executive's Office on the appropriate form to use for a particular contract.

5.4.5.4 Length of Term of Contracts

The length of the contract term (beginning and ending date) may vary depending on the type of contract, but the term must not be more than 5 years, unless the contract falls under one of the exceptions below and it is approved by the Board, or the Director of Procurement, if the contract falls within the Director's signature authority. Even if it does not fall into one of



the exceptions below, the Board or the Director of Procurement, if it is within the Director's authority, has discretion to approve a contract term for more than 5 years if the Agency/Department is able to justify why such an exception should be approved. The maximum 5-year term includes any amendments to the contract term.

The exceptions to the maximum 5-year term are:

- (1) When the funding source for a contract provides that the contract term must exceed five years. Such funding sources may include the State or Federal government or an outside funding source (private or foundation grant);
- (2) When the County "piggybacks" on another jurisdiction's contract that is more than five years or that is subsequently extended for more than the initial five-year term;
- (3) When a specific law, code or regulation requires that a particular type of contract includes certain contract term(s) that exceed 5 years;
- (4) Contracts for goods, which includes equipment, that have a lifespan that exceeds five years and the benefits to the County of exceeding a five-year term outweigh the benefits of creating and executing a new contract after five years;
- (5) Contracts for technology software or hardware that have a lifespan exceeding five years and the benefits to the County of exceeding a five-year term outweigh the benefits of creating and executing a new contract after five years;
- (6) Proprietary maintenance contracts;



- (7) Contracts for project-specific professional services where the length of the project is expected to exceed five years;
 - (8) Revenue contracts; and
 - (9) Contracts with other governmental agencies.

5.4.5.5 Monitoring, Administration, and Evaluation of Contracts

Monitoring, administration and evaluation of County contracts are essential to promoting the most cost-effective use of taxpayer dollars and County resources and to ensuring that the County receives the goods and/or services for which it contracts.

Although the method used to monitor, administer and evaluate a contract will depend on the type of contract, Agencies/Departments are required to develop performance standards and implement a process that incorporates monitoring, administration and evaluation of contracts. For example, self-monitoring and self-reporting may be appropriate for certain contracts.

Agencies/Departments must also document their performance evaluations of contractors. The retention period for this documentation should be the same as the retention period for the subject contract. These performance evaluations may be used by Agencies/Departments to evaluate the propriety of entering into contract extensions or future agreements with the same contractor. The Board or Board Committees may also request copies of evaluations from time to time.

5.4.5.6 Contract Payment Terms

If applicable, payment terms should be tied to performance or level of effort, and expense reimbursements for consulting contracts must be



consistent with the County's travel policy, unless it is a fixed price contract, in which case no expense reimbursement above the fixed price is authorized. All consultant contracts where travel and per diem cost or other identified direct cost are reimbursed must also be consistent with the County's travel policy, unless such costs are included in either a fixed unit price or a firm fixed price. This policy does not require the County to pay for travel and does not prohibit Agencies/ Departments from negotiating better terms for the County than what is contained in the County's travel policy.

5.4.6 Applicable Legal Authority

The applicable legal authority for this Section includes, but is not limited to the following: California Government Code Sections 4525 et seq.

This section of the Board Policy Manual, in its original format, can be found at

<https://connect.sccgov.org/sites/policies/FormsrelatedtoPolicies/Board%20Policy%205.4.pdf>.

Related Policies

None.

Related Forms

- Service Agreement Amendment Form - <https://connect.sccgov.org/sites/forms/proc/ProcurementCountywideForms/Service%20Agreement%20Amendment%20Form.aspx>
- Service Agreement Checklist - <https://connect.sccgov.org/sites/forms/proc/ProcurementCountywideForms/Service%20Agreement%20Checklist.aspx>



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- Service Agreement Form - <https://connect.sccgov.org/sites/forms/proc/ProcurementCountywideForms/Service%20Agreement.aspx>

History

Date	Changes Made
3/19/14	Policy Uploaded. (Kyle Larson)